

REMARKS

Claims 1-16 are all of the pending claims, with claim 1 being the sole independent claim.

The Examiner rejects claims 1-16 under 35 USC § 103(a) as being obvious over US 5,259,373 to Gruenke et al. (“Gruenke”) in view of US 6,142,952 to Behbehani et al. (“Behbehani”) and US 5,503,146 to Froehlich et al. (“Froehlich”). Applicants respectfully traverse this rejection in view of the following remarks.

Independent claim 1 recites (among other things) that when the analyzing yields a result indicating a functional disturbance or an increase risk device failure, the method involves “generating a signal indicative of the functional disturbance or the risk of device failure.” Example, non-limiting embodiments of this feature are discussed at page 9 (6th paragraph) of the instant specification. At least the “generating signal” feature (as recited in independent claim 1), in combination with the other features recited in independent claim 1, is not taught or suggested by the prior art relied upon by the Examiner.

The Examiner relies upon the combination of the Gruenke and Behbehani references to teach most of the features defined by claim 1, except for the “analyzing” feature. Therefore, the Examiner looks to the secondary reference of Froehlich to allegedly teach this feature. This rejection position is not convincing for the following reasons.

As pointed out by the Examiner, Froehlich’s apparatus includes a controller 17 that places a blower 12 in a standby mode when the controller 17 senses an unimpeded air flow (e.g., if the mask is removed from the patient or a gross leak occurs). Froehlich goes on to explain that if desired, an alarm may be sounded to alert the patient that the apparatus has been placed in the standby mode. In other words, Froehlich’s alarm is indicative of the operational mode of the apparatus. The reference is simply not pertinent to “generating a signal indicative of the functional disturbance or the risk of device failure,” as required by independent claim 1.

As demonstrated above, Froehlich’s alarm feature is simply not pertinent to the signaling feature of the present invention. Accordingly, even if combined in the manner suggested by the Examiner, the prior art would still not meet each and every feature of the invention defined by claim 1.

CONCLUSION

In view of the above, Applicants earnestly solicit reconsideration and allowance of all of the pending claims.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By: 
Ray Heflin, Reg. No. 41,060

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

DJD/HRH:lmg